IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.THANKAPPAN

TUESDAY, THE 26TH JUNE 2007 / 5TH ASHADHA 1929

Crl.L.P..No. 360 of 2007()

STC.1976/2003 of J.M.F.C.-I, KANNUR

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PETITIONER/COMPLAINANT

V.V.PRABHAKARAN, S/O.KUNHIRAMAN NAMBIAR,
CHALIL HOUSE, P.O.MUNDAYAD, KANNUR DISTRICT.

BY ADV. SRI.P.M.PAREETH

RESPONDENTS: STATE & ACCUSED

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1. STATE OF KERALA, REPRESENTED BY
PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.

2. P.V.THANKAMANI, W/O.LATE MOHANAN,
AGED 42 YEARS, RESIDING AT PULLUVAN VALAPIL,
ATHIRAKAM, P.O.MUNDAYAD, ELAYAVOOR, KANNUR
DISTRICT.

BY P.P.SRI.C.M.KAMMAPPU FOR R2

THIS CRIMINAL LEAVE PETITION HAVING BEEN FINALLY HEARD ON 26/06/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

K. Thankappan, J.

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Crl. L. P. No. 360 of 2007

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Dated this the 26th day of June, 2007

O R D E R

This is a petition to special leave to appeal filed by the complainant in S.T.C.No.1976/2003 on the file of the Judicial Magistrate of the First Class-I, Kannur. The allegation in the complaint is that the 2nd respondent had filed certain complaints against the petitioner alleging various offences including offence section 376 IPC. It is also alleged that the accused made such allegation to harass and tarnish the image of the petitioner knowing that the petitioner would be arrested and it would be published in the newspapers. After considering the entire evidence, the trial court found that there was no finding that the 2nd respondent should be proceeded for making baseless allegations and therefore the 2nd respondent was protected under law and she was found not guilty of the offence alleged against her and she was acquitted. Against the above acquittal order, this petition has been attempted by the petitioner.

2. This Court heard learned counsel for the petitioner elaborately and perused the records made available to this Court.

3. Question to be considered is whether the judgment of the trial court is justified or not?

4. The specific allegation in the complaint filed by the petitioner was that criminal and civil cases were filed by the 2nd respondent against the petitioner and all cases were went against her. It is also alleged that the complaints filed before the Women's Commission against the petitioner were forwarded to the police and police had taken action against the petitioner and he was charge-sheeted for the offence under section 376 IPC and accusations were published in newspapers. The trial court after considering the entire evidence found that the complaint which preferred by the 2nd respondent alleging certain offences was made in good faith and hence even if it had affected the reputation of the petitioner, the 2nd respondent could not be found guilty for offence under section 499 IPC. The trial court also found that the court had taken cognizance of the offence of rape against the petitioner but he was acquitted only on the basis that the charge was not proved beyond reasonable doubt and that there was no finding that the entire charge was false and baseless. Decisions relied on by the learned counsel for the petitioner viz., Damodara Shenoi V. Public Prosecutor (1989(2) KLT 767) and S.K.Sundaram: In re ((2001)2 SCC 171) are not applicable in the facts and circumstances of the case.

5. In the above circumstances, this Court is of the view that the findings entered by the trial court are on evidence and the petitioner had

miserably failed to prove the case against the 2nd respondent to presume under section 499 IPC. Hence, the judgment of the trial court requires no interference by this Court. Consequently, leave to appeal is rejected.

K. Thankappan,
Judge.

mn.

K.Thankappan,J.

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Crl.l.P.No. /200

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ORDER

-6-2007